

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

**HAWAII ISLAND BURIAL COUNCIL
MEETING MINUTES**

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR - LAND

DEAN NAKANO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

DATE: THURSDAY, FEBRUARY 16, 2006
TIME: 10:00 AM
PLACE: DEPARTMENT OF AGRICULTURE BUILDING
Waimea Irrigation Systems Office
66-1220 Lalamilo Road #B
Kamuela, HI

ATTENDANCE:

HIBC MEMBERS: Charles Young, Chair
Ulu Sherlock, Vice-Chair, Hilo
Leningrad Elarionoff, Kohala
Ron Dela Cruz, Kohala
Roger Harris
Roy Helbush
Ku Kahakalau, Hamakua
Cynthia Nazara, Kona
Dutchie Saffrey, Puna

ABSENT: Pele Hanoa, Ka'u
Anna Cariaga, Ka'u
Kaleo Kualii, Kona
Jacqui Hoover

STAFF: David Brown, SHPD Archaeology Branch Chief
Julie Taomia, SHPD Hawaii Island Archaeologist
Maryanne Maigret, SHPD Hawaii Island Assistant Archaeologist
Keola Lindsey, SHPD History and Culture Branch
Colin Lau, Deputy Attorney General

GUESTS: Iwalani Arakaki
Marian P. Channels
Olivia Nenio
Nani Langridge

I. OPENING REMARKS

HIBC Chair Charles Young calls the meeting to order at 10:15 a.m.

Ku Kahakalau offered a pule.

Introduction of HIBC members, SHPD staff and the Deputy Attorney General.

II. HIBC MEETING MINUTES

A. APPROVAL OF THE JANUARY 18, 2006 HIBC MEETING MINUTES

A motion is made to approve the January 18, 2006 HIBC meeting minutes. (Kahakalau/Saffrey)

Leningrad Elarionoff (Elarionoff) says that at the last meeting an individual expressed their concern on an agenda item that went a little overboard. The Council needs to be prepared for outbursts like that.

Young says the minutes should reflect that he left the meeting at the lunch break and that Sherlock took over when the meeting reconvened.

Roger Harris (Harris) says he arrived at the meeting when it reconvened after lunch.

Vote: All in Favor

Keola Lindsey (Lindsey) introduces David Brown, the SHPD Archaeology Branch Chief and Julie Taomia, the new lead Hawaii Island Archaeologist.

III. BUSINESS

A. A BURIAL TREATMENT PLAN FOR FEATURE A OF SIHP SITE 11476 LOCATED ON TMK: 3-8-2-002:002 KEALAKEKUA AHUPUA'A, SOUTH KONA DISTRICT, ISLAND OF HAWAI'I

Information/Determination: Recognition of lineal and/or cultural descendants.

Lindsey says at the January 2006 HIBC meeting Mr. Clarence Medeiros was recognized as a cultural descendant to the burials in this area. Medeiros had also submitted claims for his children and grandchildren. Those claims have been reviewed, and the Department is recommending recognition for his children and grandchildren.

Lindsey reads a memorandum dated February 10, 2006 which recommends Kareen K. Medeiros, Jacob L. Medeiros, Lincoln K. Medeiros, Jaimison K. Medeiros and Jayla A. Medeiros be recognized by the HIBC as cultural descendants to burials in this area.

A motion is made to accept staff's recommendation and recognize the individuals listed in the memorandum as cultural descendants. (Kahakalau/Sherlock)

Elarionoff asks about the ages of Medeiros' children and grandchildren.

Lindsey says the children are adults and the grandchildren are minors.

Vote: All in Favor

Young says he had received an email from Medeiros regarding additional burials in the area that have come to his (Medeiros') attention. Medeiros says this is a collateral lineal descent claim.

Lindsey says that information has also been provided to the Department and is being reviewed. These burials appear to be on a separate TMK parcel and not within the project area.

IV. CASE UPDATES

A. FINAL PRESERVATION PLAN FOR AN AREA IN THE AHUPUA'A OF HONOKOHAU I (NUI) AND II (IKI), KONA DISTRICT, ISLAND OF HAWAI'I [TMK (3) 7-4-008:013, (3)7-4-08:030, (3) 7-4-08:074]

Information: Discussion of the Historic Preservation Division's approval of a final preservation plan for the five burial sites located on the subject TMK parcels which is detailed in a letter dated January 20, 2006 from the Historic Preservation Division to West Hawaii Business Park, LLC.

Lindsey says a January 20, 2006 letter detailing the Department's approval of a final preservation plan for the burials on this property was included in the HIBC packet this month. As of the January 2006 meeting, the last unresolved issue was the Kamanu Street alignment which had been proposed to cross over one of the lava tube burial sites. The Department did approve that road alignment.

Sherlock asks if the HIBC will be kept updated on the engineering designs that will be finalized for the portion of Kamanu Street that will cross over the tube. There was discussion about this setting a precedent.

Lindsey says the January 20, 2006 letter triggers the next step in the development process for Mr. Greenwell. Once the design is finalized, the Department and the HIBC will get the opportunity to see it. The Council will get that information in the mail packet. Whether the Council wants to agendaize any discussion on the final design is up to the Council.

Kahakalau agrees that this was a precedent and says if concerns are expressed, then the matter can be put back on the agenda.

Lindsey says the Department has requested to be kept updated on the final design, but has acknowledged that the approval of the final design is with the appropriate entity.

Young says the plan also incorporated cultural advisors, so they would be raising additional concerns as they come up.

A motion is made to close agenda item IV. A. (Sherlock/Saffrey)

Vote: All in Favor

V. INADVERTENT DISCOVERIES

Information/Recommendation: Informational presentation by SHPD staff on inadvertent discoveries of skeletal remains reported to the Department in the month of November 2005, December 2005 and January 2006 on the following properties.

A. Kaumalumu/Pahoehoe Ahupuaa, North Kona District, Hawaii Island [TMK (3) 7-7-004:062]

Lindsey says the landowner's consultant has proposed preservation in place for this inadvertently discovered burial. The Department has concurred with that proposal and determined preservation in place. At this point the Department is waiting to receive a proposal for the short and long term measures of preservation in place.

Kahakalau asks if this property will need a burial treatment plan that will be presented to the HIBC.

Lindsey says the archaeological inventory survey did identify burials, and their treatment will be in a burial treatment plan presented to the HIBC. Burials discovered during data recovery are treated as inadvertent. The data recovery takes place after the inventory survey.

Lindsey says he is not sure what the landowner's timeframe is for submitting a burial treatment plan for the previously identified burials.

Saffrey asks if the landowner is required to look for descendants to determine the treatment of the inadvertent.

Lindsey says the Department seeks out knowledgeable individuals. Generally, there are no newspaper publications for inadvertent burials. There are recognized descendants in Kaumalumu and Pahoehoe Ahupua'a.

Dela Cruz asks if an individual presents oral information to the archaeologist about burials, and the archaeologists come back later and find burials, is that enough to change the classification from inadvertent to previously known.

Lindsey responded that this is generally not the case. The definitions of inadvertent and previously identified are pretty clear. Ideally, if an individual does have family history that identifies burials, they should talk to the archaeologist before the inventory survey work starts. Most consultants do an historical background research effort and get out into the community before they start their work.

Young asks if the HIBC will see this issue in the burial treatment plan.

Lindsey says the fact that an inadvertent discovery occurred will be in the burial treatment plan, but it is possible that the final treatment will already be finalized.

Lindsey says Iwalani Arakaki has already been recognized as a cultural descendant in Kaumalumu Ahupua'a.

Saffrey asks how this Council will be informed of that.

Lindsey says we have the previous memo and the minutes from the meeting where Arakaki was recognized.

Kahakalau asks if statistics are available to see how many burials are discovered during data recovery.

Lindsey says that is something that could be put together.

Iwalani Arakaki says she is not comfortable submitting all of her genealogy.

Lindsey says he understands that a lot of the information Arakaki has is personal information, so maybe she can start off with submitting what she is comfortable with, and if it is not sufficient, the Department will let her know, and we can work from there.

**B. Honokohau Ahupuaa, North Kona District, Hawaii Island
[TMK (3) 7-4-008:047]**

Lindsey says this is also a burial that was inadvertently discovered during data recovery. The Department has already approved preservation in place, and the short and long term preservation details. This site was originally scheduled for data recovery and then destruction. A major subdivision road was planned to pass through this site. When the burial discovery was made, the consultant worked with the landowner to realign the road and preserve not just the burial, but the entire archaeological site. Tom Smith is the developer and Alan Haun is the archaeological consultant.

**C. Lalamilo Ahupuaa, South Kohala District, Hawaii Island
[TMK (3) 6-7-02:064]**

Lindsey says contractors at the Luala'i Development called in a report of remains being encountered during excavations the day before Thanksgiving. It was determined that the remains encountered were non-human, most likely cow bones. There were some initial concerns because we have had inadvertent calls in prior years there that turned out to be human.

D. Fern Acres, Mountain View, Hawaii Island

Lindsey says in December, the Hawai'i County Police Department turned over human remains that had been subject to an investigation. The investigation had concluded that the remains were over 50 years old. Lindsey refers the HIBC to a February 3, 2006 letter from the SHPD to the Police Records office requesting a copy of the police report related to this case. The report will identify the landowner and specific location information. The Department can then start working on final disposition. These remains were discovered in a strange context.

Saffrey asks when the investigation took place.

Lindsey says he is not sure, the SHPD took custody in December.

Kahakalau says she is concerned over iwi being moved. Kahakalau asks what the State's policy is for Police moving iwi.

Lindsey says generally the age of remains is determined by what is going on around those iwi. If we are in a construction site, and there archaeological sites in the area and associated with the remains, it is a lot easier for an archaeologist to say that the remains are over or under 50 years old. In this specific situation, the Police have described a skull placed on top of a fertilizer bag. Lindsey feels that no archaeologist would feel comfortable with making an age determination in that context. If a private landowner had called this in, the SHPD would have immediately contacted the Police.

Elarionoff says when the Police encounter a scene like this, the goal is to preserve the scene in place so they can start looking for foul play.

Lindsey says it is his understanding based on his discussion with the people involved, what they saw in this lava tube was very concerning. There were modern items with the remains and in a strange context. Until the Department gets a copy of the Police report, a lot of the information will be unknown. The Police initiated an investigation because they had concerns.

Elarionoff says the Police do have a written policy for every situation that can be encountered. That can be requested.

Lindsey says in this specific situation with the preliminary information we have at this point, anyone looking at this scene would have been concerned.

**E. Kamaoa Ahupuaa, Kau District, Hawaii Island
[TMK (3) 9-3-002]**

County workers discovered remains that were determined to be non-human.

**F. Kukio/Maniniowale Ahupuaa, Kona District, Hawaii Island
[TMK (3) 7-2-004:017]**

Contractors reported the discovery of remains which were determined to be non-human.

**G. Ooma Ahupuaa, Kona District, Hawaii Island
[TMK (3) 7-3-10:051]**

Lindsey says a contractor discovered remains in a bulldozer push pile. The remains were identified as human. An archaeological consultant was brought in to begin a recovery effort to go through all the bulldozer push piles which could have iwi in them. All of the iwi recovered were curated in the Kona office until a final treatment could be determined. The

landowner proposed a reburial location, the Department approved it, and the reburial has already taken place.

Young asks how big the project is.

Lindsey says the original parcel was 50 acres, but that has been subdivided into smaller parcels. The larger 50 acre parcel did have previously identified burials on it. The project where the inadvertent occurred did not have previously identified burials on it, but did have archaeological preservation sites.

Marian Channels says she is a descendant of O'oma. Her great grandfather is from the area. She represents the Lilinoe 'Ohana. Channels says Arakaki will be helping her submit a descendency claim.

Lindsey says the Department will work with her.

Janet Nenio (Nenio) says she is from the area. She will be submitting her paperwork.

Kahakalau asks if the reburial location will be disclosed to any cultural descendants.

Lindsey says upon request, the location will be disclosed. The reburial location is not physically delineated. The reburial location is within a larger archaeological preservation site which is delineated. A metes and bounds description will be generated for the reburial location.

Harris says it appears the inadvertent procedure was followed in this case. Harris asks Arakaki if she was consulted.

Arakaki says she was not.

Harris asks Lindsey who was consulted.

Lindsey says there are cultural descendants recognized in O'oma, and they were consulted. Lindsey says the Department is also aware of individuals with a connection to the area, and they were also consulted. If people are added to the list for future cases, they will be consulted.

Nazara says that before the inventory survey, the archaeologist went out and talked with people as part of the historical research. Nazara wonders if anyone pointed out the area where the burial was discovered.

Lindsey responded that he did not think so. This particular inadvertent was well hidden in a lava 'a'a field. It would have been very difficult to find this site during the inventory survey.

Nazara asks if the burials found during the inventory survey were found because of family testimony.

Lindsey says he is not sure, he would have to look at the inventory survey report. Lindsey does not know of any lineal descendants to burials in the area.

Arakaki says her family will be involved here.

Harris says the Department is now in contact with her, and should stay in communication if any new issues come up.

Lindsey says the tough thing with consultations is that the Department does have a 48-hour statutory timeframe for a determination to be rendered. Most landowners and developers are willing to extend that timeframe, and the Department appreciates that because it allows for the necessary information to be obtained in order to make a determination.

Lindsey says it is very common for landowners or developers to revise their plans to accommodate preservation in place of a burial.

Saffrey asks if the Department can try and contact at least one family member regarding an inadvertent, and then that family member can coordinate among the larger family. This is because the timeframe is so short.

Lindsey says the Department tries to contact and consult with as many family members as possible. If families want to coordinate among themselves and come forward with a point person, that is fine. The Department does not like to put pressure on people to share their thoughts, but generally that is the way it works.

Dela Cruz says maybe we need to look at extending that statutory timeframe.

Lindsey says it is difficult to consult with people and give them a deadline for sharing their thoughts. It is fortunate that in most cases, that timeframe is voluntarily extended by the landowner.

Young says he has seen a lot more accommodation on the part of landowners to allow for more time.

Kahakalau says there is correspondence in the packet related to inadvertent discoveries that is not on the agenda.

Young says we should make sure that in the future everything in the packet is on the agenda for discussion.

VI. ANNOUNCEMENTS

Saffrey says she is concerned about certain HIBC members being consistently absent. How is that going to be addressed.

Young says he has attempted to address that by drafting a letter. He will send that letter. The letter basically reminds people that they need to attend or call in if they are not going to attend.

Sherlock says we have all been told that we need to attend. We took an oath to be here.

Saffrey says this is a concern. This is important.

Young says his letter will go to all Council members.

Saffrey says we need to go straight to the people. Saffrey states that it bothers her that others attend many of the meetings and that the same people are not showing up.

Young says he is going to send the first letter out to everyone.

Saffrey says she would also like to know from the DLNR what happens to the fines that are assessed. Who sees that money and where does it go.

Lindsey says he thinks any money from fines goes to the General Fund.

Saffrey says the General Fund has millions and the IBC's have nothing.

Brown says the Burial Council needs to tell the DLNR this. The Burial Council's are not the only ones with budgets being cut. The Historic Preservation Division continues to have its budget cut.

Saffrey says Brown has to guide the Council on what needs to be done.

Young says he has received calls and the discussions are the funding on all Islands is really bad.

Saffrey says we need to fill an active role.

Kahakalau says we need to put this on next month's agenda for discussion to perhaps generate a formal letter from the entire Council not just asking for an accounting of the money generated from fines, but encouraging full support not just for the HIBC, but all Island Burial Councils.

VII. ADJOURNMENT

**A Motion is made to adjourn the HIBC meeting
(Elarionoff/Sherlock)**

Vote: All in Favor

The meeting is adjourned at 12:20p.m.